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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,738	01/27/2004	James M. McDonough	APD-001	1102
34203	7590	06/09/2006	EXAMINER	
Michael L. Leetzow, Esq. Michael L. Leetzow, P.A. 5213 SHORELINE CIRCLE SANFORD, FL 32771			WONG, STEVEN B	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,738

Applicant(s)

MCDONOUGH ET AL.

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-12 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed specification fails to set forth that the web members are connected only to the legs. Page 4, lines 19-21 of the specification state that the web members are not directly attached to the shaft, but to the legs. However, this language does not specifically define that the web members are only attached to the legs. Further, this arrangement is not clearly discernible from the Figures. Figure 1 shows the web member (32) interposed between the legs (28), however, it is not clear where the web member ends and the legs begin and thus, it cannot be clearly inferred from the Figures that the web members are connected only to the legs. For example, since it is unclear where the web member ends and the legs begin, it is unclear if the web members are connected to the ribs (30) or upper shaft extensions (20).

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 5-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrikian (5,383,668). Regarding claim 1, Andrikian discloses a golf tee comprising a base

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(15), a shaft (12), a top portion comprising at least three legs (14) and a web member (33) extending between the legs. The web members extend between the legs and are only connected to the legs.

Regarding claims 5-8, note column 2, lines 55-58 stating that the tee is made of a flexible and resilient material such as rubber or plastic. The flexible material is inherently capable of fitting through an opening in a practice mat. Further, the rubber or plastic material is inherently elastomeric.

Regarding claim 10, note Figure 8 of Andrikian showing a plurality of legs (14) and a plurality of webs (33) extending therebetween. One of the webs and first and second legs define an opening or ramp for the golf ball that is received in a cup (13).

Regarding claim 11, when the golf ball is seating in the cup (13), only a portion of the legs (14) will contact the golf ball.

Regarding claim 12, note page 1, lines 33-37 stating that the tee is used with a practice mat.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrikian (5,383,668). It would have been obvious to one of ordinary skill in the art to provide four legs for the tee of Andrikian in order to allow the user an additional choice for teeing the golf ball.

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7. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrikian (5,383,668) in view of Chase (3,414,268). Regarding claim 14, Andrikian lacks the teaching for a rib to attach the legs (14) to the shaft (12).

Chase reveals a golf tee construction including a shaft (12, 16) having a plurality of legs (17) attached thereto. Note Figure 8 of Chase and column 3, lines 63-72 stating that to provide additional rigidity for the legs a reinforcing rib (19) may connect the legs to the shaft. It would have been obvious to one of ordinary skill in the art to provide the golf tee of Andrikian with a reinforcing rib between the legs and the shaft in order to better support the legs during use.

Regarding claim 15, note the rejection of claim 2.

Regarding claim 16, the web member (33) of Andrikian extends between the legs.

8. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (3,414,268) in view of Patterson (5,301,950). Chase discloses a golf tee comprising an enlarged base (12), a shaft (16) connected to the base, a top portion comprising a plurality of legs (17) and a rib (19) connected the shaft and the legs. However, Chase lacks the method as claimed.

Patterson reveals that it is well known in the art of golf tees to tee a golf ball by pushing the ball against the tee and urging the golf ball up and onto the tee's golf ball seat. It would have been obvious to one of ordinary skill in the art to tee a golf ball on the tee of Chase by pushing the golf ball to the tee of Chase and then urging the ball between the legs and up onto the tee in order to tee a golf ball without bending down.

Allowable Subject Matter

9. Claims 3, 4, 9 and 17 appear to read over the prior art of record. Insofar as claim 17 may be understood, it appears to read over the prior art of record as none of the prior art teaches a

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distinct web member that extends only between the legs of the tee and wherein the golf ball is teed by the recited method.

Response to Arguments

10. Applicant's arguments with respect to claims 1-12 and 14-19 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claims 1, 2, 5-8 and 10-12, the amendments to the claims necessitated the new grounds of rejection over Andrikian.

Regarding claims 14-16, the amendment necessitated the new grounds of rejection over Andrikian in view of Chase. The reference to Chase teaches that it is known in the art of golf tees to provide a rib for supporting the leg members.

Regarding claims 17-19, the amendment to claim 17 appears to overcome the references to Clausing and Patterson. The amendment to claim 18 necessitated the new grounds of rejection over Chase in view of Patterson.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

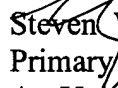
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Wednesday 7am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Steven Wong
Primary Examiner
Art Unit 3711

SBW
June 6, 2006